

REMARKS

This paper responds to the Office Action mailed on August 21, 2007.

Claims 1, 9, and 15 are amended, claims 2 and 13 are canceled, and no claims are added; as a result, claims 1, 3-12 and 14-32 are now pending in this application.

§103 Rejection of the Claims

Claims 1-32 were rejected under 35 USC § 103(a) as being unpatentable over Itoh et al. (U.S.2002/0072391) in view of Chlytchkov (U.S. 7,065,638), in further view of Krantz et al. (U.S. 2004/0153676) in view of Gavlik (U.S. 7,073,077). Applicant respectfully traverses.

Claim 1 recites, in part, “, wherein at least one of the plurality of wireless network adapters includes a powered state to continuously scan for a wireless connection or maintain a wireless connection, wherein at least one of the plurality of wireless network adapters includes a reduced power state to conserve power by not continuously scanning for a wireless connection or maintaining a wireless connection; . . . a policy manager, at a different level than the kernel level sense driver, adapted to receive state information from the sense driver and to selectively activate at least one of the plurality of wireless network adapters based on the state information, wherein the policy manager is adapted to selectively hold at least one of a non-selected group of the plurality of wireless network adapters in a reduced power state based on the connectivity information, and wherein the non-selected group does not include an activated one of the plurality of wireless network adapters.” Applicant can not find these features in the applied references of Itoh, Chlytchkov, Krantz, or Gavlik. Accordingly, applicant requests allowance of claim 1 and its dependent claims 3-8.

The Office Action refers to Itoh’s figure 1, items 20-1, 20-2, 20-3, and 20-4, and further paragraph. 41, i.e., driver software 6 for using the communication adapter 20 to read on the recited plurality of wireless network adapters as recited in claim 1. Applicant respectfully disagrees. Itoh at paragraph 42 states, in part, “The communication adapters 20-2 to 20-4 are wired cards, that is, connection boards (LAN connection boards) for connecting the computer apparatus to the networks 9-1 to 9-3 through a cable.” Accordingly, Itoh does not have a plurality of wireless network adapters as recited in claim 1. Also note that each of the pending independent claims 9, 15, and 23 each include wireless network adapters. Moreover, as Itoh

does not have a plurality of wireless cards it does not address the same problems as does the presently claimed inventions. There would be not reasonable expectation of success if one of skill in the art attempted to combine the teachings of Itoh with the secondary reference Chlytchkov, the tertiary reference Krantz, or the quaternary reference Gavlik.

Applicant further asserts that Itoh teaches away from the presently claimed invention as it recites that it has one wireless card 20-1 and three wired cards 20-2 to 20-4.

Applicant can not find a teaching of a plurality of wireless network adapters in Chlytchkov.

Applicant can not find a teaching of a plurality of wireless network adapters in Krantz.

Applicant can not find in Gavlik any mention of a wireless network card or any mention of a powered state to continuously scan for a wireless connection or maintain a wireless connection, wherein at least one of the plurality of wireless network adapters includes a reduced power state to conserve power by not continuously scanning for a wireless connection or maintaining a wireless connection as recited in claim 1. Gavlik does discuss wired connections, see Abstract, Figure 2, and columns 1 and 2, which discuss connection jack and Ethernet NIC. Accordingly, Gavlik teaches away from the presently claimed invention, does not provide a reasonable basis for success, and is nonanalogous art.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143. The Examiner must avoid hindsight. *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990). The Office Action at page 5 states that a motivation to combine Gavlik with the other three references "is to allow for power conservation of the device." However, this appears to be a motivation as found in the present application not the references as Gavlik does not discuss saving power in wireless network adapters.

The Office Action took official notice of the driver continuously senses the operational state of the wireless network adapters. Applicant respectfully traverses this official notice and requests the Examiner to provide a reference that describes such an element. Absent a reference, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2). The Office Action then

refers to Gavlik. However, Gavlik does not mention wireless network adapters. Thus, Gavlik does not support the official notice.

Applicant asserts that the remaining claims are allowable for at least substantially similar reasons as stated above.

RESERVATION OF RIGHTS

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney ((612) 349-9587) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

AJAY G. GUPTA ET AL.

By their Representatives,
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, Minnesota 55402
(612) 349-9587

Date

21 Dec '07

By



Timothy B. Clise
Reg. No. 40,957

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 21 day of December 2007.

LISA ROSARKE

Name

Lisa Rosarke

Signature